

AMENDED IN ASSEMBLY APRIL 25, 2005

AMENDED IN ASSEMBLY APRIL 14, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

## ASSEMBLY BILL

**No. 1606**

**Introduced by Assembly Member Salinas**

February 22, 2005

---

An act to *amend Section 33334.3 of the Health and Safety Code*, relating to redevelopment.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1606, as amended, Salinas. Redevelopment: low-income housing.

*The Community Redevelopment Law, among other things, regulates funds used for purposes of increasing and improving the community's supply of low- and moderate-income housing.*

*This bill would require that income eligibility for this purpose be based upon the income of each individual residing in the unit and not on the aggregate income of the residents in the unit.*

~~The Community Redevelopment Law limits the effectiveness of every redevelopment plan adopted on or before December 31, 1993, to 40 years from the adoption of the redevelopment plan or January 1, 2009, whichever is later, after which the agency has no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness, to comply with provisions governing compliance with an agency's affordable housing obligations, and to enforce existing covenants, contracts, or other obligations. After 10 years from the termination of the effectiveness of the redevelopment plan pursuant to that provision, a redevelopment agency may not pay indebtedness or receive tax increment revenues, except as specified.~~

~~This bill would authorize the City Council of the City of Watsonville or the Redevelopment Agency of the City of Watsonville, notwithstanding any other provision of law or the time limits described above and subject to the approval of the city council, to retain, until January 1, 2020, its ability to incur indebtedness exclusively for the purpose of managing and entering into a partnership with a housing sponsor or developer to provide affordable rental housing to single, low-income wage earners if specified conditions are met and would extend the ability of the agency to receive tax increment revenues to repay indebtedness incurred pursuant to these provisions until January 1, 2060.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 33334.3 of the Health and Safety Code  
2     is amended to read:  
3     33334.3. (a) The funds that are required by Section 33334.2  
4     or 33334.6 to be used for the purposes of increasing and  
5     improving the community's supply of low- and moderate-income  
6     housing shall be held in a separate Low and Moderate Income  
7     Housing Fund until used.  
8     (b) Any interest earned by the Low and Moderate Income  
9     Housing Fund and any repayments or other income to the agency  
10    for loans, advances, or grants, of any kind from the Low and  
11    Moderate Income Housing Fund, shall accrue to and be deposited  
12    in, the fund and may only be used in the manner prescribed for  
13    the Low and Moderate Income Housing Fund.  
14    (c) The moneys in the Low and Moderate Income Housing  
15    Fund shall be used to increase, improve, and preserve the supply  
16    of low- and moderate-income housing within the territorial  
17    jurisdiction of the agency.  
18    (d) It is the intent of the Legislature that the Low and  
19    Moderate Income Housing Fund be used to the maximum extent  
20    possible to defray the costs of production, improvement, and  
21    preservation of low- and moderate-income housing and that the  
22    amount of money spent for planning and general administrative  
23    activities associated with the development, improvement, and  
24    preservation of that housing not be disproportionate to the

1 amount actually spent for the costs of production, improvement,  
2 or preservation of that housing. The agency shall determine  
3 annually that the planning and administrative expenses are  
4 necessary for the production, improvement, or preservation of  
5 low- and moderate-income housing.

6 (e) (1) Planning and general administrative costs which may  
7 be paid with moneys from the Low and Moderate Income  
8 Housing Fund are those expenses incurred by the agency which  
9 are directly related to the programs and activities authorized  
10 under subdivision (e) of Section 33334.2 and are limited to the  
11 following:

12 (A) Costs incurred for salaries, wages, and related costs of the  
13 agency's staff or for services provided through interagency  
14 agreements, and agreements with contractors, including usual  
15 indirect costs related thereto.

16 (B) Costs incurred by a nonprofit corporation which are not  
17 directly attributable to a specific project.

18 (2) Legal, architectural, and engineering costs and other  
19 salaries, wages, and costs directly related to the planning and  
20 execution of a specific project which are authorized under  
21 subdivision (e) of Section 33334.2 and which are incurred by a  
22 nonprofit housing sponsor are not planning and administrative  
23 costs for the purposes of this section, but are instead project  
24 costs.

25 (f) (1) The requirements of this subdivision apply to all new  
26 or substantially rehabilitated housing units developed or  
27 otherwise assisted, with moneys from the Low and Moderate  
28 Income Housing Fund, pursuant to an agreement approved by an  
29 agency on or after January 1, 1988. Except to the extent a longer  
30 period of time may be required by other provisions of law, the  
31 agency shall require that housing units subject to this subdivision  
32 shall remain available at affordable housing cost to, and occupied  
33 by, persons and families of low or moderate income and very low  
34 income and extremely low income households for the longest  
35 feasible time, but for not less than the following periods of time:

36 (A) Fifty-five years for rental units. However, the agency may  
37 replace rental units with equally affordable and comparable  
38 rental units in another location within the community if (A) the  
39 replacement units are available for occupancy prior to the  
40 displacement of any persons and families of low or moderate

1 income residing in the units to be replaced and (B) the  
2 comparable replacement units are not developed with moneys  
3 from the Low and Moderate Income Housing Fund.

4 (B) Forty-five years for owner-occupied units. However, the  
5 agency may permit sales of owner-occupied units prior to the  
6 expiration of the 45-year period for a price in excess of that  
7 otherwise permitted under this subdivision pursuant to an  
8 adopted program which protects the agency's investment of  
9 moneys from the Low and Moderate Income Housing Fund,  
10 including, but not limited to, an equity sharing program which  
11 establishes a schedule of equity sharing that permits retention by  
12 the seller of a portion of those excess proceeds based on the  
13 length of occupancy. The remainder of the excess proceeds of the  
14 sale shall be allocated to the agency and deposited in the Low  
15 and Moderate Income Housing Fund. Only the units originally  
16 assisted by the agency shall be counted towards the agency's  
17 obligations under Section 33413.

18 (C) If land on which those dwelling units are located is deleted  
19 from the project area, the agency shall continue to require that  
20 those units remain affordable as specified in this subdivision.

21 (2) The agency shall require the recording in the office of the  
22 county recorder of covenants or restrictions implementing this  
23 subdivision for each parcel or unit of real property subject to this  
24 subdivision. Notwithstanding any other provision of law, the  
25 covenants or restrictions shall run with the land and shall be  
26 enforceable, against the original owner and successors in interest,  
27 by the agency or the community.

28 (g) "Housing," as used in this section, includes residential  
29 hotels, as defined in subdivision (k) of Section 37912. The  
30 definitions of "lower income households," "very low income  
31 households," and "extremely low income households" in  
32 Sections 50079.5, 50105, and 50106 shall apply to this section.  
33 "Longest feasible time," as used in this section, includes, but is  
34 not limited to, unlimited duration.

35 (h) *Income eligibility of residents, for purposes of qualifying*  
36 *as low or moderate income, shall be based on the income of each*  
37 *individual residing in the unit and not on the aggregate income*  
38 *of all residents in the unit. Four income eligible single*  
39 *individuals may constitute a household to occupy a two bedroom*

1 *unit. Two income eligible single individuals may constitute a*  
2 *household to occupy a single residential hotel unit.*

3 ~~(h)~~

4 (i) “Increasing, improving, and preserving the community’s  
5 supply of low- and moderate-income housing,” as used in this  
6 section and in Section 33334.2, includes the preservation of  
7 rental housing units assisted by federal, state, or local  
8 government on the condition that units remain affordable to, and  
9 occupied by, low- and moderate-income households, including  
10 extremely low and very low income households, for the longest  
11 feasible time, but not less than 55 years, beyond the date the  
12 subsidies and use restrictions could be terminated and the  
13 assisted housing units converted to market rate rentals. In  
14 preserving these units the agency shall require that the units  
15 remain affordable to, and occupied by, persons and families of  
16 low- and moderate-income and extremely low and very low  
17 income households for the longest feasible time but not less than  
18 55 years. However, the agency may replace rental units with  
19 equally affordable and comparable rental units in another  
20 location within the community if (1) the replacement units in  
21 another location are available for occupancy prior to the  
22 displacement of any persons and families of low or moderate  
23 income residing in the units to be replaced and (2) the  
24 comparable replacement units are not developed with moneys  
25 from the Low and Moderate Income Housing Fund.

26 ~~(i)~~

27 (j) Agencies that have more than one project area may satisfy  
28 the requirements of Sections 33334.2 and 33334.6 and of this  
29 section by allocating, in any fiscal year, less than 20 percent in  
30 one project area, if the difference between the amount allocated  
31 and the 20 percent required is instead allocated, in that same  
32 fiscal year, to the Low and Moderate Income Housing Fund from  
33 tax increment revenues from other project areas. Prior to  
34 allocating funds pursuant to this subdivision, the agency shall  
35 make the finding required by subdivision (g) of Section 33334.2.

36 ~~(j)~~

37 (k) Funds from the Low and Moderate Income Housing Fund  
38 shall not be used to the extent that other reasonable means of  
39 private or commercial financing of the new or substantially  
40 rehabilitated units at the same level of affordability and quantity

1 are reasonably available to the agency or to the owner of the  
2 units. Prior to the expenditure of funds from the Low and  
3 Moderate Income Housing Fund for new or substantially  
4 rehabilitated housing units, where those funds will exceed 50  
5 percent of the cost of producing the units, the agency shall find,  
6 based on substantial evidence, that the use of the funds is  
7 necessary because the agency or owner of the units has made a  
8 good faith attempt but been unable to obtain commercial or  
9 private means of financing the units at the same level of  
10 affordability and quantity.

11 ~~SECTION 1. (a) Notwithstanding any other provision of law~~  
12 ~~or the time limits in paragraph (1) of subdivision (a) of Section~~  
13 ~~33333.6 and subject to the approval of the City Council of the~~  
14 ~~City of Watsonville, the City Council or the Redevelopment~~  
15 ~~Agency of the City of Watsonville may retain, until January 1,~~  
16 ~~2020, its ability to incur indebtedness exclusively for the purpose~~  
17 ~~of managing and entering into a partnership with a housing~~  
18 ~~sponsor or developer to provide affordable rental housing to~~  
19 ~~single, low-income wage earners who are persons and families of~~  
20 ~~low or moderate income, as defined in Section 50093 of the~~  
21 ~~Health and Safety Code if either of the following conditions are~~  
22 ~~met:~~

23 ~~(1) Eligibility for occupancy shall be based on an individual's~~  
24 ~~income, provided that four eligible single individuals may~~  
25 ~~constitute a household to occupy a two-bedroom unit.~~

26 ~~(2) Eligibility for occupancy for a residential hotel shall be~~  
27 ~~based on an individual's income, provided that two eligible~~  
28 ~~individuals may constitute a household to occupy a single unit.~~

29 ~~(b) The ability of the agency to receive tax increment revenues~~  
30 ~~to repay indebtedness incurred pursuant to this section may be~~  
31 ~~extended until January 1, 2060. This section does not extend the~~  
32 ~~effectiveness of the agency's redevelopment plan, except to incur~~  
33 ~~additional indebtedness for the activities specified in this section,~~  
34 ~~to pay previously incurred indebtedness, and to enforce existing~~  
35 ~~covenants, contracts, or other obligations.~~

36 ~~SEC. 2. Due to the unique circumstances of the City of~~  
37 ~~Watsonville with respect to affordable housing, the Legislature~~  
38 ~~hereby finds and declares that a general statute cannot be made~~  
39 ~~applicable within the meaning of Section 16 of Article IV of the~~  
40 ~~California Constitution. Therefore, the special legislation~~

1 contained in Section 1 of this act is necessarily applicable only to  
2 the City of Watsonville.

O